

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION  
DOCKET NO. 3:18-cv-00029-MOC

A. BURTON SHUFORD, )  
                          )  
Plaintiff,             )  
                          )  
Vs.                    )                           ORDER  
                          )  
JAMES M. HARMON,     )  
                          )  
Defendant.            )

**THIS MATTER** is before the Court on the government's Motion for a Bench Warrant, petitioning the Court for issuance of a Bench Warrant for James. M. Harmon.

An Order of Criminal Contempt (#2) was issued against Mr. Harmon on January 26, 2018, and the Court, having no reason to believe that Mr. Harmon would evade service or posed a threat to the public, issued a Summons requiring Mr. Harmon to appear and answer that charge. Pursuant to the Court's instructions, the United States Marshal Service has made several attempts to serve Mr. Harmon with a copy of the Summons and the Court's Orders. See Motion (#22). The United States Attorney advises that all attempts to serve Mr. Harmon have been unsuccessful, that Mr. Harmon has yet to appear in response to the Summons, and that there is reason to believe that Mr. Harmon may be evading service of process.

Based on such showing, the government has now moved for the issuance of a Bench Warrant. Having considered the government's motion, the Court determines that: (1) as evidenced by its previous Order of Criminal Contempt, probable cause exists to believe that Mr. Harmon is in criminal contempt; and (2) that a warrant should now issue as it appears that attempts to

effectuate the Summons have, despite best efforts, been unavailing. Therefore, the Court will now withdraw the Summons and issue a Bench Warrant. *See United States v. Yarborough*, 122 F. 293, 297 (W.D. Va. 1903).

## ORDER

**IT IS, THEREFORE, ORDERED** that:

- (1) The government's Motion for a Bench Warrant (#22) for the arrest of defendant James M. Harmon is **GRANTED**, the Summons is **WITHDRAWN**, and the Clerk of Court is instructed to issue a Bench Warrant for the arrest of defendant James M. Harmon in this matter;
- (2) The Clerk of Court is respectfully instructed to now assign a Criminal Action number to this matter and to reference such number upon the Bench Warrant, placing in brackets the civil action number previously assigned;
- (3) Upon the arrest of the defendant, the United States Marshal shall bring the defendant for an Initial Appearance before a United States Magistrate Judge, who will conduct an initial appearance upon the Order of Criminal Contempt; and
- (4) This matter is **CONTINUED** from the September 17, 2018, trial term to the November 19, 2018 term.

Signed: September 10, 2018



Max O. Cogburn Jr.  
United States District Judge